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EXAMINER

ALVAREZ, RAQUEL

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

AUG 28 2007

GROUP 3600

Application Number: 09/708,235
Filing Date: November 07, 2000
Appellant(s): CALLOWAY ET AL.

David Hoffman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/18/2007 appealing from the Office action mailed 8/16/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,067,348	Hibbeler	05-2000
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6,725,381	Smith et al.	04-2004
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-15, 18-33, 35-63 and 71-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Official Notice.

With respect to claims 1-7, 9,-11, 55, 57, 58, 71-72, 74 Hibbeler teaches a system for creating and distributing a series of individualized multimedia messages over a computer network for a plurality of recipients (Abstract). A recipient information repository with unique recipient information for at least a first and second recipient (Figure 11, 300); a multimedia content repository with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); means for creating and delivering individualized multimedia content over said computer network to each of the plurality of recipients, wherein said multimedia content is assembled from selected elements with the multimedia content repository which are selected in response to individual information about each of said recipients whose individual information is extracted from the recipient information repository (col. 3, lines 51-67).

With respect to the messages being graphic and video. Official notice is taken that it is old and well known to deliver messages in graphic and video format in order to provide a visual representation of the data received. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the messages being graphic or video in order to achieve the above mentioned advantage.

With respect to claims 20, 21, 24-30, 32, 49-50, 73 Hibbeler teaches a system for creating and distributing individualized multimedia messages over a computer network (Abstract). A computer operatively connected to said network and executing a programmed sequence of instructions (See Figure 11, 1110); a recipient information access routine with said programmed sequence of instructions which is capable of accessing data about a given intended recipient with unique recipient information for at least a first and second recipient (Figure 11, 300); a content repository containing multimedia elements that may be combined to form individualized messages with computer files comprising at least one of text and audio files (i.e. the greetings can be stored as text or audio and are converted into speech)(col. 5, lines 10-37); a content management routine within said programmed sequence of instructions which is capable of retrieving selected multimedia content from the content repository, wherein the process of selecting multimedia content is responsive to information content regarding the given recipient accessed by the recipient information access routine (see Figure 11, 1110); a multimedia engine routine within said programmed sequence of instructions which packages the multimedia content as individualized message for delivery to the

given recipient (Figure 11); a delivery routine within said programmed sequence of instructions which delivers the individualized message to the given recipient (Figure 11, 1120).

With respect to the messages being graphic and video. Official notice is taken that it is old and well known to deliver messages in graphic and video format in order to provide a visual representation of the data received. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the messages being graphic or video in order to achieve the above mentioned advantage

Claim 8 further recites a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies. Official notice is taken that is old and well known in the computer related arts to remove errors and unwanted redundancies from a database in order to free memory space and to leave just useful information in the database. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included a clean up routine which cleans up a recipient database by removing errors and unwanted redundancies in order to obtain the above mentioned advantage.

Claims 12-15, 33, 36-38, 54, 56, 59-63 further recite delivering the message via various e-mail formats. Hibbeler teaches transmitting the message over the Internet

(col. 6, lines 38-40) therefore delivering messages via e-mail including various formats would have been obvious convenient and widely use by computer users.

Claims 19 and 23 further recite printing the individualized messages. Official notice is taken that is old and well known to print individualized messages to the customer in order to provide a more permanent output. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included printing the individualized messages in order to obtain the above mentioned advantage.

Claims 22 and 31 further recites known computer programming languages. Since Hibbeler teaches transmitting the message over the Internet (col. 6, lines 38-40) then it would have been obvious to have included the various programming languages.

Claims 39-40, 42-43, 45 further recite allowing direct client input and a search engine. Official notice is taken that is old and well known in computer related arts to allow direct client input in order to take the user's objectives, likes and dislikes into account for later customization of the data and a search engine for finding information . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included allowing direct client input and a search engine in order to obtain the above mentioned advantage.

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Claims 41, 44 and 46 further recite restricting non-authorized parties from accessing a client campaign and files check in and out. Official notice is taken that is old and well known in the computer related arts to restrict non-authorized parties from accessing certain information and files check in and out. For example, certain employees would not have access to certain classified information for security reasons and keeping track of the files checked in and out to keep track of whoever is using those files. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included restricting non-authorized parties from accessing a client campaign and to manage file check in and out in order to achieve the above mentioned advantage.

Claim 47 further recites real time report and usage statistics. Official notice is taken that is old and well known in the computer related arts to real time reporting and usage statistics because such a modification would allow for collection, analysis and interpretation of the data collected.

Claim 51 further recites modifying the individualized message with an offer, rebate or discount. Official notice is taken that is old and well known in the computer related arts to offer an individualized, message or discount to a customer in order to increase the likelihood that the customer will use the offer. For example, a couple with children will be given a children related offer that will take into account the customer needs. It would have been obvious to a person of ordinary skill in the art at the time of

Applicant's invention to have included modifying the individualized message with an offer, rebate or discount in order to obtain the above mentioned advantage.

Claim 52 further recites a word-of mouth form of advertisement. Official notice is taken that is old and well known in marketing to promote word-of mouth form of advertisement because such a modification would provide an inexpensive reliable form of advertisement.

Claim 53 further recites collecting user's recommendations. Official notice is taken that is old and well known to collect user's recommendations and input in order to use the information to improve and make modifications to the system in place. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included collecting user's recommendations in order to achieve the above mentioned advantage.

Claims 16-17, 34-35 and 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Smith et al. (6,725,381 hereinafter Smith).

Claims 16-17, 34 and 75-78 further recite sending a unique URL to the recipient pointing to the message content and a second routine to display the message content. Smith teaches on col. 4, lines 35-43, delivering a **personalized Universal resource**

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locator (URL) in the e-mail message with instructions to the recipient to use the URL to retrieve the subject document and allowing the user to click on the URL to open the content of the message . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the teachings of Smith of sending a unique URL to the recipient pointing to the message content and displaying the message content because such a modification would allow for 'push' paradigm messaging and document delivery (col. 4, lines 35-43).

(10) Response to Argument

Appellant argues that in Hibbeler there is no way to produce multimedia over the telephone. The Examiner wants to point out that in Hibbler the greetings are stored as **text or audio** and are converted into speech on col. 5, lines 10-37 and therefore it would have been obvious to have included delivering the contents as text or audio as they are stored.

Appellant argues that Hibbeler doesn't teach the message body varying from recipient to recipient and the selection of the message content. The Examiner disagrees with Appellant because Hibbeler clearly teaches using **call list 300 for personalization of an audio greeting** (col. 3, lines 61-67 and Figure 3) **"The message body can be a single message or multiple messages that can be used to tailor the entire message to each individual recipient"** (col. 5, lines 41-45). In addition Hibbeler teaches on col. 5, lines 2-9, **"The personalized group message 800**

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is another alternative embodiment comprised of a greeting segment 610, a group message 820, and a message body 620. The group message 820 includes a special message identifying the group and personalized toward the group as an additional personalization. An example is a personalized message from a **CEO of a corporation, wherein the group message could identify a group such as the shareholders of the corporation, as in "Hi, Jim, as a shareholder of XYZ Corp., I want to tell you. . . ." In addition on col. 5, lines 43-45, Hibbeler teaches "the message body can be a single message or multiple messages that can be used to tailor the entire message to each individual recipient".**

Appellant argues that Hibbeler doesn't teach changing a message after broadcasting the message by using a unique URL which retrieves the message content. The Examiner wants to point out that Hibbeler wasn't cited for teaching the above limitation but Smith was the reference cited for teaching on col. 4, lines 35-43, delivering **a personalized Universal resource locator (URL) in the e-mail message with instructions to the recipient to use the URL to retrieve the subject document and allowing the user to click on the URL to open the content of the message.**

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Raquel Alvarez

Conferees:

Eric Stamber

Yehdega Retta

The block contains three handwritten signatures. The first signature, for Raquel Alvarez, is a large, stylized cursive script. The second signature, for Eric Stamber, is a smaller, more compact cursive script. The third signature, for Yehdega Retta, is a very compact, almost monogram-like cursive script.